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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,374	12/22/2000	Manoel Tenorio	020431.0751	8825

38441 7590 06/03/2005

LAW OFFICES OF JAMES E. WALTON, PLLC  
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EXAMINER
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HAYES, JOHN W

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/745,374

Applicant(s)

TENORIO, MANOEL

Examiner

John W. Hayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 April 2005 has been entered.

### ***Status of Claims***

2. Applicant has amended claims 1, 17 and 33-34 in the amendment filed 14 April 2005. Thus, claims 1-34 remain pending and are presented for examination.

### ***Information Disclosure Statement***

3. Applicant has commented that examiner has not considered the Information Disclosure Statements previously submitted by applicant. Examiner considered the references cited in these IDSs and submitted signed copies along with the action mailed on 28 May 2004, however, it appears that they may have been lost. Examiner is providing additional copies of these signed IDS herewith.

### ***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chipman et al, U.S. Patent No. 6,038,668 in view of Hokanson, U.S. Patent No. 6,094,680 and Zhao, U.S. Patent No. 6,081,840.

As per **Claims 1, 15, 17 and 31**, Chipman et al disclose a method and software for migrating product data within an electronic commerce system, comprising:

- monitoring requests for product data by users of a global content directory (Col. 3, lines 55-60; Col. 4, lines 35-40; Col. 5, lines 24-30; Col. 7, lines 30-45), the global content directory comprising:
  - a directory structure comprising a plurality of product classes organized in a hierarchy, each product class categorizing a plurality of products and defining one or more attributes of the products categorized in the product class (Col. 3, lines 30-50; Col. 4, lines 35-40; Col. 6, lines 58-64; Col. 7, lines 39-58); and
  - one or more pointers associated with each product class, each pointer identifying a seller database in which product data enabling a product transaction is stored for products associated with the product class (Col. 5, lines 24-30; Col. 9 line 63-Col. 10 line 9);

Chipman et al further discloses creating a searchable directory structure on a portal which acts as a primary interface to the organized information and further wherein the portal is remote from the sellers/suppliers more detailed database of product information. Although Chipman et al discloses the migration of this directory structure to a storage location remote from the seller, Chipman et al fails to explicitly disclose that this migration occurs based upon monitoring requests by the user and initiating the migration of the product data from the seller database to the storage location. Hokanson discloses a system for managing distributed resources on networks and teaches the use of multiple network cites for facilitating user access to information. Users can locally access certain resources at a local network cite to which they are connected, or remotely access other resources at remote network cites. The network

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manager manages the location of resources among the network cites to make the resources available to the users given their request patterns. The network manager weighs the cost of relocating the requested resource to the local network cite closer to the user (Col. 2, lines 35-61). Hokanson identifies locations of particular users, such as which city they may be located in (Figure 1; Col. 4, lines 30-54), and monitors the user demand for resources and dynamically adjusts the resource offerings to better service the user's requests by relocating the requested resource information to a location physically closer to the user (Col. 6, lines 35-45; Col. 6 line 62-Col. 7 line 7; Col. 7, lines 25-67; Col. 9, lines 47-54). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Chipman et al and include the ability to migrate product data from sellers databases to storage locations closer to the user that requested the information as taught by Hokanson. Hokanson focuses on monitoring requests from groups of users located in a particular location and relocating frequently requested information physically closer to the users , however, examiner submits that one having ordinary skill in the art would readily recognize that this technique may be used for single users rather than a group of users. Chipman provides motivation by suggesting that moving or locating high level descriptive information to a location more local to the user would facilitate quick access to the variety of information stored locally (Col. 3, lines 55-60). Similarly, Hokanson discloses that locating frequently access resource information to a location physically closer to the user would more efficiently meet user demand by making the resources available within acceptable time frames while satisfying the desire to contain costs (Col. 2, lines 5-10; Col. 6, lines 40-45).

Chipman et al further fail to explicitly disclose generating a request history for each of the users based on the monitoring of the requests for product data by the users. Hokanson identifies locations of particular users, such as which city they may be located in (Figure 1; Col. 4, lines 30-54), and monitors the user demand for resources and dynamically adjusts the resource offerings to better service the user's requests by relocating the requested resource information to a location physically closer to the user (Col. 6, lines 35-45; Col. 6 line 62-Col. 7 line 7; Col. 7, lines 25-67; Col. 9, lines 47-54). Zhao discloses a content distribution system and teaches a method for monitoring the usage patterns of data used by the users and determines whether or not the data should be migrated to a location more local to the user

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(Col. 3, lines 5-18; Col. 4, lines 45-60). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Chipman et al and include generating request histories for each user based on the teachings of Hokanson and Zhao. The same motivation discussed above applies. Zhao also provides motivation by indicating that monitoring user requests of data and subsequently moving data that is requested more to a location physically closer to the user would enable the local servers to handle most file requests without the need to contact the source server and reduce the communications overhead resulting in such contacts (Col. 4, lines 53-60).

As per **Claims 2 and 18**, Chipman et al further disclose wherein a request for product data by a user comprises a selection of a product from search results obtained from one or more seller databases by the global content directory and communicated to the user (Col. 4, lines 35-40; Col. 5, lines 55-62; Col. 7, lines 30-65).

As per **Claims 3, 10-12, 19 and 26-28**, Chipman et al fails to disclose determining that the user has requested the information a selected number of times within a selected period of time and determining if the information should be migrated based on this. Hokanson discloses relocating the information closer to the user based upon monitoring user demand for the requested resource information (Col. 2, lines 45-50; Col. 5, lines 17-20; Col. 6, lines 35-45). Hokanson does not explicitly state determining that the user has requested the information a selected number of times within a selected period of time, however, examiner submits that this is a well known technique for measuring user demand. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Chipman and relocate data physically closer to the user based on certain user demand measurements such as the number of times the information is requested within a selected period of time in order to better serve the user.

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As per **Claims 4-5 and 20-21**, Chipman et al further discloses wherein the data that is migrated comprises product data associated with each of a plurality of products in a product class (Col. 3, lines 30-60; Col. 5, lines 55-62; Col. 9, lines 35-52; Col. 10 line 63-Col. 11 line 2).

As per **Claims 6-8 and 22-24**, Chipman et al and Humphrey fail to specifically disclose deleting or overwriting data with other data when the data has not been requested for a specified period of time or when the storage is needed for additional data. Examiner takes Official Notice that it is well known in the art to delete or overwrite data that is determined to be no longer useful. The motivation to delete or overwrite data that is determined to no longer be useful would be to alleviate the wasting of storage space by freeing more storage space for information that is more active or popular and would obviously provide more benefit to the users that most likely would be interested in the more active or popular information.

As per **Claims 9, 13, 25 and 29**, Chipman et al further disclose wherein migrated product data is stored for access by each of a subset of the users and the storage location for the product data is determined based on the locations of each of the subset of users (Col. 3, lines 57-60; Col. 5, lines 9-18).

As per **Claims 14 and 30**, Chipman et al and Humphrey fail to disclose storing the product data inside a firewall of the computer. Examiner takes Official Notice that storing data within a user's firewall is well known in the art and the reasons for doing this are also well known. It is well known that a firewall provides a means for storing information within a computer in a secure manner that limits outsiders from accessing the data.

As per **Claims 16 and 32**, Chipman et al further disclose creating pointers to the storage locations and to update the migrated product data using the pointer when the product data is updated in the seller database (Col. 35-53).

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As per Claims 33 and 34, Chipman et al disclose a method and software for migrating product data within an electronic commerce system, comprising:

- monitoring requests for product data by users of a global content directory, the requests each comprising a selection of a product from search results obtained from one or more seller databases by the global content directory and communicated to the user (Col. 3, lines 55-60; Col. 4, lines 35-40; Col. 5, lines 24-30; Col. 7, lines 30-45), the global content directory comprising:

- a directory structure comprising a plurality of product classes organized in a hierarchy, each product class categorizing a plurality of products and defining one or more attributes of the products categorized in the product class (Col. 3, lines 30-50; Col. 4, lines 35-40; Col. 6, lines 58-64; Col. 7, lines 39-58); and

- one or more pointers associated with each product class, each pointer identifying a seller database in which product data enabling a product transaction is stored for products associated with the product class (Col. 5, lines 24-30; Col. 9 line 63-Col. 10 line 9);

Chipman et al further discloses creating a searchable directory structure on a portal which acts as a primary interface to the organized information and further wherein the portal is remote from the sellers/suppliers more detailed database of product information. Although Chipman et al discloses the migration of this directory structure to a storage location remote from the seller and further teaches updating the migrated data using pointers when the product data is updated in the seller database (Col. 35-53), Chipman et al fail to explicitly disclose that this migration occurs based upon monitoring requests by the user and initiating the migration of the product data from the seller database to the storage location based upon the number of times the user has requested the information. Hokanson discloses a system for managing distributed resources on networks and teaches the use of multiple network cites for facilitating user access to information. Users can locally access certain resources at a local network cite to which they are connected, or remotely access other resources at remote network cites. The network manager manages the location of resources among the network cites to make the resources available to the users given their request patterns. The network manager weighs the cost of relocating the requested resource to the local network cite closer to the user (Col. 2, lines 35-61). Hokanson identifies locations of



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particular users, such as which city they may be located in (Figure 1; Col. 4, lines 30-54), and monitors the user demand for resources and dynamically adjusts the resource offerings to better service the user's requests by relocating the requested resource information to a location physically closer to the user (Col. 6, lines 35-45; Col. 6 line 62-Col. 7 line 7; Col. 7, lines 25-67; Col. 9, lines 47-54). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Chipman et al and include the ability to migrate product data from sellers databases to storage locations closer to the user that requested the information as taught by Hokanson. Hokanson focuses on monitoring requests from groups of users located in a particular location and relocating frequently requested information physically closer to the users, however, examiner submits that one having ordinary skill in the art would readily recognize that this technique may be used for single users rather than a group of users. Chipman provides motivation by suggesting that moving or locating high level descriptive information to a location more local to the user would facilitate quick access to the variety of information stored locally (Col. 3, lines 55-60). Similarly, Hokanson discloses that locating frequently access resource information to a location physically closer to the user would more efficiently meet user demand by making the resources available within acceptable time frames while satisfying the desire to contain costs (Col. 2, lines 5-10; Col. 6, lines 40-45).

Chipman et al further fail to explicitly disclose generating a request history for each of the users based on the monitoring of the requests for product data by the users. Hokanson identifies locations of particular users, such as which city they may be located in (Figure 1; Col. 4, lines 30-54), and monitors the user demand for resources and dynamically adjusts the resource offerings to better service the user's requests by relocating the requested resource information to a location physically closer to the user (Col. 6, lines 35-45; Col. 6 line 62-Col. 7 line 7; Col. 7, lines 25-67; Col. 9, lines 47-54). Zhao discloses a content distribution system and teaches a method for monitoring the usage patterns of data used by the users and determines whether or not the data should be migrated to a location more local to the user (Col. 3, lines 5-18; Col. 4, lines 45-60). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Chipman et al and include generating request histories for each user based on the teachings of Hokanson and Zhao. The same motivation

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discussed above applies. Zhao also provides motivation by indicating that monitoring user requests of data and subsequently moving data that is requested more to a location physically closer to the user would enable the local servers to handle most file requests without the need to contact the source server and reduce the communications overhead resulting in such contacts (Col. 4, lines 53-60).

### ***Conclusion***

7. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

8. The prior art previously made of record and not relied upon is considered pertinent to applicant's disclosure.

- Zhao discloses a content distribution system wherein information is distributed to remotely located systems closer to end users in order to maximize access speed for remote users. The system determines the number of times the data is accessed or requested and when this exceeds a threshold, then the information is migrated from a central location to a location physically closer to the end user.
- Lumelsky et al disclose a system wherein resources are classified as either global or local and the information is placed dynamically based on an analysis of usage patterns by a plurality of clients
- London et al disclose a system enabling more rapid display of information by end users by periodically collecting and storing the data onto CD-ROMS or DVDs and distributing these to each subscriber of the service
- Jammes et al disclose the use of a product catalog for searching products from multiple sellers and further disclose a database ID for each seller and monitors user's requests for data

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- Gregory discloses a method for distributed content electronic commerce and teach the use of a commerce server to handle transactions and a merchant server for storing detailed product information
- Imamura et al disclose an electronic shopping system and teach the use of an electronic catalog for multiple sellers wherein product data is stored at a remote mall server
- Buyukkoc et al discloses a dynamic cache replication method in an Internet environment that replicates data at a closer location to the user based upon user usage patterns
- Filepp et al disclose a system that permits information and transactional services to be provided to users based upon predetermined parameters such as user locale
- Barrett et al disclose a system for profiling user activities and assisting a user in accessing information stored at remote network sites based on the user's past history of network usage
- Nowers et al disclose a method for facilitating electronic commercial transactions and teach establishing a global electronic catalog of products offered for sale on an electronic storefront and including an inventory of products from a plurality of different vendors
- Rajaraman et al disclose a system for generation of hierarchical search results using classifications and subclassifications of the data.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (571)272-6708. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (571)272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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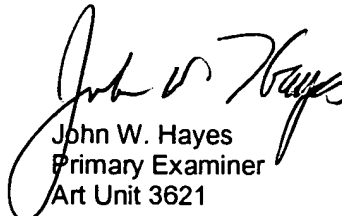
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Hand delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

  
John W. Hayes  
Primary Examiner  
Art Unit 3621

June 2, 2005